

## **§ 302.213**

(b) At any time after answer has been filed, any party may file with the DOT decisionmaker or the administrative law judge a motion to dismiss or a motion for summary judgment, including supporting affidavits. The procedure on such motions shall be in accordance with the Federal Rules of Civil Procedure (28 U.S.C.), particularly Rules 6(d), 7(b), 12, and 56, except that answers and supporting papers to a motion to dismiss or for summary judgment shall be filed within 7 days after service of the motion.

(c) Parties may petition the DOT decisionmaker to review action by the administrative law judge granting summary judgment or dismissing an enforcement proceeding under the procedure established for review of an initial decision in § 302.28.

### **§ 302.213 Hearing.**

After the issues have been formulated, whether by the pleadings or otherwise, the administrative law judge or the DOT decisionmaker shall give the parties reasonable written notice of the time and place of the hearings.

### **§ 302.214 Appearances by persons not parties.**

With consent of the administrative law judge or the DOT decisionmaker, appearances may be entered without request for or grant of permission to intervene by interested persons who are not parties to the proceeding. Such persons may, with consent of the administrative law judge or the DOT decisionmaker, cross-examine a particular witness or suggest to any party or counsel therefor questions or interrogations to be propounded to witnesses called by any party, but may not otherwise examine witnesses and may not introduce evidence or otherwise participate in the proceeding. However, such persons may present to both the administrative law judge and the DOT decisionmaker an oral or written statement of their position on the issues involved in the proceeding.

### **§ 302.215 Settlement of proceedings.**

(a) The Deputy General Counsel and the respondent may agree to settle all or some of the issues in an enforcement proceeding at any time before a final

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decision. The Deputy General Counsel shall serve a copy of any proposed settlement on each party and shall submit the proposed settlement to the administrative law judge for approval. The submission of a proposed settlement shall not automatically delay the proceeding.

(b) Any party to the proceeding may submit written comments supporting or opposing the proposed settlement within 10 days from the date of service.

(c) The administrative law judge shall approve the proposed settlement, as submitted, if it appears to be in the public interest, or otherwise shall disapprove it.

(d) Information relating to settlement offers and negotiations will be withheld from public disclosure if the Deputy General Counsel determines that disclosure would interfere with the likelihood of settlement of an enforcement proceeding.

### **§ 302.216 Evidence of previous violations.**

Evidence of previous violations by any person or of any provision of the act or any requirement thereunder found by DOT or a court in any other proceeding or criminal or civil action may, if relevant and material, be admitted in any enforcement proceeding involving such person.

### **§ 302.217 Motions for immediate suspension of operating authority pendente lite.**

All motions for the suspension of the economic operating authority of an air carrier during the pendency of proceedings to revoke such authority shall be filed with, and decided by the DOT decisionmaker. Proceedings on the motion shall be in accordance with § 302.18. In addition, the DOT decisionmaker shall afford the parties an opportunity for oral argument on such motion.

### **§ 302.218 Modification or dissolution of enforcement actions.**

Whenever any party to a proceeding in which an order of DOT has been issued pursuant to section 1002(c) of the Act, or an injunction or other form of enforcement action has been issued by